

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

FRED ANDERS	:	
	:	NO. 1:05-CV-00132
Petitioner,	:	2:05-CV-00512
	:	
	:	
v.	:	OPINION AND ORDER
	:	
	:	
OHIO ADULT PAROLE AUTHORITY,	:	
	:	
Respondent.	:	

This matter is before the Court on the Report and Recommendation in which the assigned Magistrate Judge recommended that Petitioner's writ of habeas corpus be denied (doc. 13). For the reasons indicated herein, the Court ADOPTS the Magistrate Judge's Report and Recommendation in its entirety.

Petitioner filed a pro se petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging his custody status on the ground that his state prison sentences have expired (doc. 2). This case was consolidated with Case No. 2:05cv512, filed by Petitioner in the Eastern Division of this Court but raising the same claim (doc. 7). Petitioner alleges that he should no longer be held in state custody or under state supervision because he has fully served his prison sentences (doc. 2). The Magistrate Judge, after fully reviewing Petitioner's criminal record, found that this was clearly not the case (doc. 13). The Magistrate Judge concluded that Petitioner's prison sentences are not due to expire until 2013

(Id.). The Magistrate Judge noted that "in the absence of an order by the Hamilton County Common Pleas Court vacating any of the judgment entries of sentence against petitioner...petitioner remains subject to state custodial supervision until some time in the year 2013" (Id.). The Court, having fully considered this matter, finds the Magistrate Judge's Report and Recommendation well-reasoned, thorough, and correct.

The Parties were served with the Report and Recommendation and were therefore afforded proper notice of the Magistrate Judge's Report and Recommendation required by 28 U.S.C. § 636(b)(1)(C), including that failure to file timely objections to the Report and Recommendation would result in a waiver of further appeal. See United States v. Walters, 638 F.2d 947, 949-50 (6th Cir. 1981). Neither Party filed any objections thereto within the ten days provided for by Fed. R. Civ. P. 72(b) and 28 U.S.C. § 636(b)(1)(C).

Having reviewed this matter de novo pursuant to 28 U.S.C. §636(b), the Court ADOPTS the Magistrate Judge's Report and Recommendation in its entirety (doc. 13), and thereby DENIES WITH PREJUDICE Petitioner's writ of habeas corpus (doc. 2). Because Petitioner has failed to make a substantial showing of the denial of a constitutional right in his petitions, the Court DOES NOT issue a certificate of appealability in this consolidated case. Finally, the Court CERTIFIES, pursuant to 28 U.S.C. § 1915(a)(3)

that an appeal of this Order would not be taken in "good faith" and therefore DENIES petitioner leave to appeal *in forma pauperis* upon a showing of financial necessity.

SO ORDERED.

Dated: November 28, 2006

s/S. Arthur Spiegel

S. Arthur Spiegel

United States Senior District Judge

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